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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,807	10/24/2003	Dany Sylvain	7000-265	2655
27820 7590 06/10/2009 WITHROW & TERRANOVA, P.L.L.C. 100 REGENCY FOREST DRIVE SUITE 160 CARY, NC 27518			EXAMINER SALL, EL HADJI MALICK	
			ART UNIT 2457	PAPER NUMBER
			MAIL DATE 06/10/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/693,807

**Applicant(s)**

SYLVAIN, DANY

**Examiner**

EL HADJ M. SALL

**Art Unit**

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to the amendment filed on March 2, 2009.

Claims 1-36 are pending. Claims 1-36 represent rehoming via tunnel switching.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-23, 25-30 and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over 7,131,141 in view of Ramanujan U.S. 20030110288.

Blewett teaches the invention substantially as claimed including method and apparatus for securely connecting plurality of trust-group networks, a protected resource network and an untrusted network (see abstract).

As to claims 1, 12, 23 and 30, Blewett teaches a method and a tunnel access server for facilitating communications between a user element and a protected network resource comprising:

- a) establishing a first tunneling session with the user element via a first access network (figure 1A, "WORKNET");

b) assigning to the user element a first target network protected address for addressing packets intended for the protected network resource and traveling in part over the first tunneling session (figure 3A, item 352).

Although Blewett teaches the invention substantially as described above, Blewett fails to teach explicitly establishing a second tunneling session with a user element via a second access network.

However, Ramanujan teaches protecting networks from access link flooding attacks. Ramanujan teaches establishing a second tunneling session with a user element via a second access network (figure 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blewett in view of Ramanujan to provide establishing a second tunneling session with a user element via a second access network in order to provide multicast addressing, allowing filtering out the attack traffic close to the attacker, thereby protecting much of public network from the traffic flood (paragraph [0054]).

Although Blewett teaches the invention substantially as described above, Blewett fails to teach explicitly reassigning addresses.

However, Ramanujan teaches reassigning addresses (paragraph [0031]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blewett in view of Ramanujan to provide reassigning to the user element the first target network protected address for addressing packets intended for the protected network resource and traveling in part over the second

tunneling session in order to provide failover upon detection of an attack, allowing tunnel 2 to take over the service, therefore continuing the session.

As to claims 2 and 13, Blewett teaches the method and the tunnel access server of claims 1 and 12 wherein the first and second tunneling sessions are encrypted tunneling sessions (column 8, lines 11-15).

As to claims 3 and 14, Blewett teaches the method and the tunnel access server of claims 1 and 12 further comprising authenticating the first and second tunneling sessions with common authentication indicia (column 5, lines 3-6).

As to claims 4, 5, 15 and 16, Blewett teaches the method and the tunnel access server of claims 1, 4, 12 and 15, respectively, wherein the first target network protected address is reassigned to the user element only when the second tunneling session is established within a predetermined period of time from termination or last use of the first tunneling session, and further comprising assigning to the user element a second target network protected address for addressing packets intended for the protected network resource and traveling in part over the second tunneling session when the second tunneling session is not established with the predetermined period of time (column 3, lines 39-63).

As to claims 6 and 17, Blewett teaches the method and the tunnel access server of claims 1 and 12 further comprising terminating the first tunneling session and reserving the first target protected network address for the user element for a predetermined period of time for use in association with the second tunneling session (column 16, lines 11-14).

As to claims 7, 18, 25, 26, 32 and 33, Blewett teaches the method, the tunnel access server and the user element of claims 1, 12, 23, 23, 30 and 30, respectively, further comprising:

- a) receiving a request from the user element for a second tunneling session (column 2, lines 39-43);
- b) terminating the first tunneling session (column 3, lines 58-60).; and
- c) enabling the second tunneling session (column 8, lines 1-2).

As to claims 8 and 19, Blewett teaches the method and the tunnel access server of claims 1 and 12 further comprising receiving the packets from the user element and forwarding the packets to the protected network resource using the first target network protected address ((column 15, lines 46-56).

As to claims 9, 20, 27 and 34, Blewett teaches the method, the tunnel access server and the user element of claims 1, 12, 26 and 30, respectively, further comprising:

a) receiving authentication indicia from the user element; and b) authenticating use of the second tunneling session by the user element based on the authentication indicia (column 5, lines 3-6).

As to claims 10, 21, 28 and 35, Blewett teaches the method and the tunnel access server of claims 1, 12, 23 and 30 wherein the first and second access networks facilitate communications with the user element using different communication technologies (column 3, lines 34-39).

As to claims 11, 22, 29 and 36, Blewett teaches the method, the tunnel access server and the user element of claims 10, 21, 28 and 35 wherein at least one of the different communication technologies is a wireless communication technology. One would be motivated to do so to allow the devices to be mobile (column 3, line 36).

**4.** Claims 1-23, 25-30 and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over 7,131,141 in view of Ramanujan U.S. 20030110288, further in view of Bahl et al., 7,020,464.

Blewett teaches the invention substantially as claimed including method and apparatus for securely connecting plurality of trust-group networks, a protected resource network and an untrusted network (see abstract).

As to claims 24 and 31, Blewett teaches the method and the user element of claims 23 and 30 wherein if the target network address is different than the first target network protected address, further comprising:

b) sending the packets intended for the protected network resource over the second tunneling session using the target network protected address (column 1, lines 59-63).

Blewett fails to teach explicitly a) restarting applications communicating with the protected network resource.

However, Bahl teaches a) restarting applications communicating with the protected network resource (column 1, lines 44-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blewett in view of Bahl to provide a) restarting applications communicating with the protected network resource. One would be motivated to do so to allow saving the new changes.

### ***Response to Arguments***

5. Applicant's arguments with respect to claim 1-36 have been considered but are moot in view of the new ground(s) of rejection.

As to claims 23 and 30, Applicant respectfully traverses, and argues that each and every element of the claim is taught or suggested in the combination of references.

Applicant's arguments have been fully considered but they are not persuasive.



In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one would be motivated to do so to allow saving the new changes.

#### ***Conclusion***

6. Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention

Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 571-272-4010. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/El Hadji M Sall/

Examiner, Art Unit 2457

/Salad Abdullahi/

Primary Examiner, Art Unit 2457